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LAW OFFICES  
**HALEY, BADER & POTTS**

4350 NORTH FAIRFAX DR., SUITE 900  
ARLINGTON, VIRGINIA 22203-1633  
TELEPHONE (703) 841-0606  
FAX (703) 841-2345

POST OFFICE BOX 19006  
WASHINGTON, D.C. 20036-9006  
TELEPHONE  
(202) 331-0606

SUSAN H. ROSENAU  
ADMITTED IN D.C. ONLY

**APR 19 1993**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

April 19, 1993

***By Hand Delivery***

Donna R. Searcy  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

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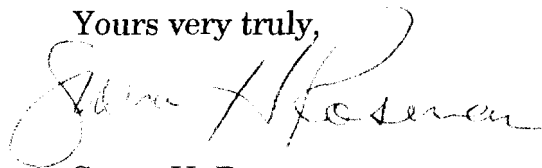
RE: Comments of PASS WORD, Inc., PR Docket  
No. 93-38, RM-8017

Dear Ms. Searcy:

On behalf of PASS WORD, Inc., please find enclosed for filing in the referenced Rule Making proceeding the original and four copies of the Comments of PASS WORD, Inc.

Kindly communicate any questions directly to this office.

Yours very truly,



Susan H. Rosenau

cc: Mr. Rodney J. Bacon

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APR 19 1993

Before The  
**Federal Communications Commission**

Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

)  
) **PR Docket No. 93-38**  
)

Amendment of the Commission's  
Rules to Permit Private Carrier  
Paging Licensees to Provide  
Service to Individuals

)  
) RM-8017  
)  
)  
)

TO: The Commission

**COMMENTS OF PASS WORD, INC.**

Pass Word, Inc. ("Pass Word"), by its attorneys, hereby submits its comments in support of the *Notice of Proposed Rule Making* ("NPRM"), FCC 93-112, released March 12, 1993. In support hereof the following is shown:

**I. IDENTITY AND INTEREST**

1. Pass Word is a radio common carrier ("RCC") and a Part 90 licensee providing private carrier paging service ("PCP") in the Spokane, Washington market area. Pass Word believes that the public interest would be served by a further relaxation of Part 90 to permit PCP licensees to serve individuals.

**II. DISCUSSION**

2. When the FCC first limited the PCP customer base to Part 90 eligibles, its rationale was that RCCs would provide non-discriminatory general paging services to the public at large, and PCPs would tailor their services to "the specialized needs of a single entity." *Remarks of Beverly*

*Baker, Deputy Chief, FCC Private Radio Bureau, International Mobile Communications Expo, Anaheim, California, March 2, 1993.* In practice, these distinctions are no longer valid. As Ms. Baker explained,

Common carriers can, and do, provide services so highly specialized as to be of interest to a single customer only.

Private carriers can and do, make general offerings -- sometimes by standard form contracts -- targeted at broad segments of the public at large.

*Id.* In essence, Part 90's restrictions on the PCP customer base serve no purposes other than to increase the cost of doing business for PCPs, to deprive the public of desirable services and equipment, to provide RCCs with an unjustified form of protection from competition, and to saddle the FCC with enforcing a nearly unenforceable scheme of regulation.

3. In Spokane, Washington, PCP retailers rarely if ever check or verify purchaser eligibility, and clearly have no control over what a user does with his or her unit thereafter. A pilot may subscribe to PCP service in order to facilitate communications by his air line, but may also be paged by friends and family members in facial violation of the presently-effective Part 90 restrictions. PCPs such as Pass Word, which try to adhere strictly to the Part 90 rules by screening potential users, are placed at a competitive disadvantage vis-a-vis other less circumspect private carriers. In any event, as noted, the most scrupulous PCP cannot prevent a purchaser who has represented himself or herself as an eligible

business user from using a PCP pager to receive personal communications.<sup>1</sup>

4. At the same time, PCP eligibility restrictions deprive the public of popular and state-of-the-art services and equipment such as the new Motorola Free Spirit pager, which is *not* available for use on RCC low band frequencies.<sup>2</sup> Allowing freer competition among RCCs and PCPs will benefit the public by making available to all users a wider range of equipment (such as Motorola Free Spirit units) and services, thus encouraging paging companies to compete primarily on the basis of price and quality.

### **III. CONCLUSION**

5. Twice in the past several years the Commission has granted Pass Word waivers of Part 90 eligibility restrictions so that Pass Word could serve U.S. Government agencies engaged in law enforcement such as the DEA and the U.S. Marshal's Office.<sup>3</sup> The benefits to the public of such a waiver, later reflected by a change in the rules, were indisputable. A further, equally salutary rule change is in order, and is proposed by the Commission herein. Pass Word submits that Part 90's PCP end-user

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<sup>1</sup> Indeed, some competitors of PCPs have used the eligibility rule as an anti-competitive weapon by sending "ringers" to trick PCPs into accepting ineligible as subscribers. Pass Word was among the PCPs thus targeted.

<sup>2</sup> Pass Word offers RCC services exclusively on low-band frequencies.

<sup>3</sup> See 4 FCC Rcd 4977 (PRB, June 19, 1989) and letter dated October 24, 1990, from Terry Fishel, Land Mobile Branch to Rodney G. Bacon of Pass Word, Inc.

restrictions have, with the passage of time, become ineffective, inefficient